

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CANDICE MARIE TOWNSEND,

Plaintiff,

Case No. 24-cv-1009-pp

v.

MARTIN J. O'MALLEY,

Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED
WITHOUT PREPAYING FILING FEE (DKT. NO. 2)**

The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying her claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. She also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

Federal law requires a person who files a complaint in federal court to pay \$405—a filing fee of \$350 (28 U.S.C. §1914(a)) and a \$55 administrative fee (Judicial Conference of the United States District Court Miscellaneous Fee Schedule Effective the December 1, 2023, #14). To allow the plaintiff to proceed without prepaying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that she does not have the ability to pay the filing fee. The plaintiff's affidavit indicates

that she is not employed, she's not married and she has no dependents she is responsible for supporting. Dkt. No. 2 at 1. The plaintiff lists income of \$400 per month from "Ira Townsend." Id. at 2. The plaintiff's expenses are \$845 per month (\$145 rent, \$500 other household expenses, \$200 car note). Id. at 2-3. The plaintiff owns a 2015 Hyundai Sonata, worth approximately \$5,000; she does not own her home or any other property of value and she has no cash on hand or in a checking or savings account. Id. at 3-4. The plaintiff says, "Due to my pass [sic] my background have kept me from getting jobs. However I have got in trouble due to my anger and frustration which caused me to catch a case. So now there's some other obstacles that's keeping me from getting a job in the field I love most. Due to financial situations I got in another problem which hinders me from working or getting a job." Id. at 4. The plaintiff has demonstrated that she cannot pay the \$405 fee.

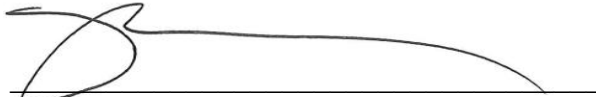
The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner's final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

The plaintiff's complaint indicates that she was denied benefits by the Commissioner and that the decision by the administrative law judge is not supported by substantial evidence, contains harmful errors of law and the ALJ abused discretion. Dkt. No. 1 at 1-2. At this early stage in the case, and based on the information in the plaintiff's complaint, the court concludes that there may be a basis in law or in fact for the plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

Dated in Milwaukee, Wisconsin this 3rd day of September, 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. Pepper', is written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge